

WSR 22-13-014
EXPEDITED RULES
EMPLOYMENT SECURITY DEPARTMENT
[Filed June 2, 2022, 3:13 p.m.]

Title of Rule and Other Identifying Information: Updating a cross-reference in WAC 192-150-180 Quitting part-time work—RCW 50.20.050(4).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC 192-150-180 currently references RCW 50.20.050(3). Chapter 251, Laws of 2021 (ESSB 5190), added new subsection (3) to RCW 50.20.050 and renumbered the previous subsection (3) as subsection (4). This proposal would similarly replace the reference to RCW 50.20.050(3) with a reference to RCW 50.20.050(4).

Reasons Supporting Proposal: Current rules refer to a subsection that has been changed. The reference should be updated to reference the correct relevant subsection.

Statutory Authority for Adoption: RCW 50.12.010 and 50.12.040 provide general rule-making authority to the employment security department (ESD). RCW 50.20.050 addresses disqualifications for quitting part-time work when an individual was simultaneously employed in a part-time job and a full-time job.

Statute Being Implemented: RCW 50.20.050.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: ESD, governmental.

Name of Agency Personnel Responsible for Drafting: Scott Michael, Olympia, 360-890-3448; Implementation and Enforcement: Sam Virgil, Olympia, 360-742-7095.

This notice meets the following criteria to use the expedited adoption process for these rules:

Content is explicitly and specifically dictated by statute.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: The expedited rule replaces a reference to an amended statute with a reference to the correct relevant statute.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Josh Dye, ESD, P.O. Box 9046, Olympia, WA 98507-9046, phone 360-890-3472, fax 844-652-7096, email rules@esd.wa.gov, TTD [TDD] relay 711, AND RECEIVED BY August 23, 2022.

June 2, 2022
Dan Zeitlin
Employment System Policy Director

OTS-3804.1

AMENDATORY SECTION (Amending WSR 17-17-129, filed 8/22/17, effective 9/22/17)

WAC 192-150-180 Quitting part-time work—RCW 50.20.050((3))

(4). (1) **Definitions.** For purposes of this section:

(a) "Part-time work" means fewer than ((35)) thirty-five hours of work per week.

(b) "Full-time work" means work of ((35)) thirty-five or more hours per week.

(2) If you are simultaneously employed in a part-time job and a full-time job, you will not be denied benefits for quitting the part-time job under the following circumstances:

(a) You quit the part-time job before losing your full-time job;

(b) You did not know in advance that your full-time job would be ending; and

(c) You are eligible for benefits based on the separation from your full-time job.

(3) If you are denied benefits under RCW 50.20.050((3)) (4), the period of denial is the same as that under RCW 50.20.050 (2)(a). This means you will be denied for a period of seven weeks and until you earn at least seven times your weekly benefit amount in covered employment.

(4) **Examples.** The following are examples only and do not mean that the department would rule the same in similar situations.

(a) *You quit a part-time job two weeks before being laid off from your full-time job.* Benefits are allowed because you meet the criteria of subsection (2) of this section.

(b) *You quit a part-time job before the hours at your full-time job were reduced.* Benefits are allowed because you meet the criteria of subsection (2) of this section.

(c) *You quit a part-time job two weeks before the end of a temporary full-time job.* You had prior knowledge that the full-time job was ending. Benefits would be denied unless you had good cause for quitting the part-time job under RCW 50.20.050(2).

(d) *You quit a part-time job two weeks before being discharged from the full-time job.*

(i) If the separation from the full-time job was for misconduct, benefits would be denied for quitting the part-time job because you are not eligible for benefits based on the separation from the full-time job.

(ii) If the separation from the full-time job was not misconduct, benefits would be allowed because you meet the criteria of subsection (3).

(e) *You quit the part-time job and the full-time job on the same day.* The department will determine if you had good cause to quit both jobs under RCW 50.20.050(2).

(f) *You quit a part-time job but are still employed full-time at your other job.* The department will determine if you had good cause to quit under RCW 50.20.050(2).

[Statutory Authority: RCW 50.12.010 and 50.12.040. WSR 17-17-129, § 192-150-180, filed 8/22/17, effective 9/22/17. Statutory Authority: RCW 50.12.010, 50.12.040, and 50.20.010. WSR 09-24-008, § 192-150-180, filed 11/20/09, effective 12/21/09.]

WSR 22-13-022
EXPEDITED RULES
DEPARTMENT OF
CHILDREN, YOUTH, AND FAMILIES
[Filed June 3, 2022, 11:30 a.m.]

Title of Rule and Other Identifying Information: Chapter 110-300D WAC, Outdoor preschool pilot project; WAC 110-300D-0001 Authority, 110-300D-0005 Findings and intent, 110-300D-0010 Definitions, 110-300D-0015 Pilot project licenses—Licensing rules, 110-300D-0020 Denial, modification, suspension, and revocation of a pilot project license—Right of review, and 110-300D-0025 Process of seeking review.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposal repeals chapter 110-300D WAC.

Reasons Supporting Proposal: Chapter 110-300D WAC implemented an outdoor preschool pilot project authorized by RCW 43.216.740 to commence August 31, 2017, and conclude June 30, 2021. The chapter is no longer necessary because the pilot has concluded, and the statute on which the chapter was based, RCW 43.216.740, expired August 1, 2021.

Statutory Authority for Adoption: RCW 43.216.740.

Statute Being Implemented: RCW 43.216.740.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of children, youth, and families (DCYF), governmental.

Name of Agency Personnel Responsible for Drafting: Debbie Groff, 509-380-4247; Implementation and Enforcement: DCYF, statewide.

The rule is no longer necessary because of changed circumstances.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: The rules no longer have a function since they administered an outdoor preschool pilot project that has ended.

NOTICE

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June 3, 2022
Brenda Villarreal
Rules Coordinator

OTS-3222.1

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 110-300D-0001 Authority.
- WAC 110-300D-0005 Findings and intent.
- WAC 110-300D-0010 Definitions.
- WAC 110-300D-0015 Pilot project licenses—Licensing rules.
- WAC 110-300D-0020 Denial, modification, suspension, and revocation of a pilot project license—Right of review.
- WAC 110-300D-0025 Process of seeking review.

WSR 22-13-119
EXPEDITED RULES
COLUMBIA BASIN COLLEGE
[Filed June 17, 2022, 8:32 a.m.]

Title of Rule and Other Identifying Information: Student code of conduct revision to clarify hazing for the purposes of complying with recently enacted Sam's Law under HB [2SHB] 1751 and chapter 28B.10 RCW.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The student code of conduct under WAC 132S-100-235 needs amending as a result of a recent change in Washington state law. Sam's Law expanded the legal definition of hazing under RCW 28B.10.900 and with the start of the 2022-23 academic year, colleges and universities must incorporate hazing education into new student orientation programs, have a hazing prevent [prevention] committee, and publicly report findings of hazing. The student code of conduct must prohibit hazing as defined by Sam's Law, and maintain and report violations of the code of conduct, antihazing policies or state or federal laws relating to hazing or offenses related to alcohol, drugs, sexual assault, or physical assault.

Reasons Supporting Proposal: Compliance with Sam's Law and chapter 28B.10 RCW.

Statutory Authority for Adoption: WAC 131-12-050 and chapter 34.05 RCW.

Statute Being Implemented: Chapter 42.56 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Camilla Glatt, 2600 North 20th Avenue, Pasco, WA 99301, 509-542-5548.

This notice meets the following criteria to use the expedited adoption process for these rules:

Adopts or incorporates by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule.

Content is explicitly and specifically dictated by statute.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: This rule is being proposed under an expedited rule-making process that will eliminate the need for the college to hold public hearings, prepare a small business economic impact statement, or provide responses to the criteria for legislative rules. If you object to this use of the expedited rule-making process, you must express your objections in writing and they must be sent to Camilla Glatt, Vice President for Human Resources and Legal Affairs, Columbia Basin College, 2600 North 20th Avenue, Pasco, WA 99301, by July 23, 2022.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Camilla Glatt, Columbia Basin College, 2600 North 20th Avenue, Pasco, WA 99301, phone 509-542-5548, fax 509-544-2029, email cglatt@columbiabasin.edu, AND RECEIVED BY August 23, 2022.

June 6, 2022
Camilla Glatt
Vice President for Human
Resources and Legal Affairs

OTS-3894.1

AMENDATORY SECTION (Amending WSR 20-03-046, filed 1/9/20, effective 2/9/20)

WAC 132S-100-235 Hazing. (1) Any ((method of)) act, described in Washington statute, RCW 28B.10.900 committed as part of a person's recruitment, initiation ((into)), pledging, admission into or affiliation with a student ((club or)) organization, athletic team, or living group, or any pastime or amusement engaged in with respect to ((a group or)) such an organization, athletic team, or living group that causes, or is likely to cause, bodily danger or physical harm, or serious ((mental)) psychological or emotional harm, to any student or other person attending the college ((as described in Washington statute, RCW 28B.10.900)), including causing, directing, coercing, or forcing a person to consume any food, liquid, alcohol, drug, or other substance which subjects the person to risk of such harm, regardless of the person's willingness to participate. Hazing does not include customary athletic events or other similar contests or competitions.

(2) A person who witnesses hazing or has reasonable cause to believe hazing has occurred or will occur and makes a report in good faith may not be sanctioned or punished for violation of hazing unless the person is directly engaged in the planning, directing, or act of hazing reported.

[Statutory Authority: RCW 28B.50.140. WSR 20-03-046, § 132S-100-235, filed 1/9/20, effective 2/9/20; WSR 16-12-039, § 132S-100-235, filed 5/25/16, effective 6/25/16.]

WSR 22-13-129
EXPEDITED RULES
TRANSPORTATION COMMISSION
[Filed June 17, 2022, 2:11 p.m.]

Title of Rule and Other Identifying Information: Amending WAC 468-300-010 Ferry passenger tolls—18 and under free passenger fares.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this rule making is to amend WAC 468-300-010 fare tables and policy language to allow children/youth passenger riders 18 years and under to ride free of charge on all Washington state ferries system routes, effective October 1, 2022.

Reasons Supporting Proposal: ESSB 5974 passed the legislature in 2022, adding a new section to chapter 47.60 RCW directing the Washington state transportation commission to adopt a fare policy for Washington state ferries to allow passengers 18 years of age and younger to ride free of charge on all ferry routes. This fare change must apply to both walk-on passengers and passengers in vehicles, and the fare policy change must take effect no later than October 1, 2022.

Statutory Authority for Adoption: Chapter 182, Laws of 2022; RCW 47.56.030, 47.60.315.

Statute Being Implemented: RCW 47.56.030, 47.60.315.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington state transportation commission, governmental.

Name of Agency Personnel Responsible for Drafting: Aaron Halbert, 2404 Chandler Court S.W., Olympia, WA 98504, 360-705-7118; **Implementation and Enforcement:** Rick Singer, 2901 Third Avenue, Suite 5000, Seattle, WA 98121, 206-515-3403.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Not applicable.

Content is explicitly and specifically dictated by statute.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: This rule making adopts language as dictated under section 421, ESSB 5974, therefore no additional public process is necessary for adoption.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Reema Griffith, Washington State Transportation Commission, P.O. Box 47308, Olympia, WA 98504-7308, phone 360-705-7070, fax 360-705-6802, email transc@wstc.wa.gov, AND RECEIVED BY August 23, 2022.

June 1, 2022
Reema Griffith
Executive Director

OTS-3878.1

AMENDATORY SECTION (Amending WSR 21-18-069, filed 8/26/21, effective 9/26/21)

WAC 468-300-010 Ferry passenger tolls.

EFFECTIVE 03:00 A.M. October 1, 2021

ROUTES	Full Fare ⁹	Senior/ Disabled, Youth ⁹	Multiride Media 20 Rides ^{1, 9}	Monthly Pass ^{5, 9}	Bicycle Surcharge ²
Via Auto Ferry *Fauntleroy-Southworth	7.20	3.60	58.60	93.80	1.00
*Seattle-Bremerton *Seattle-Bainbridge Island *Edmonds-Kingston	9.25	4.60	75.00	120.00	1.00
Port Townsend-Coupeville	3.85	1.90	63.60	101.80	0.50
*Fauntleroy-Vashon *Southworth-Vashon *Pt. Defiance-Tahlequah	6.10	3.05	49.80	79.70	1.00
*Mukilteo-Clinton	5.65	2.80	46.20	73.95	1.00
*Anacortes to Lopez, Shaw, Orcas or Friday Harbor	14.85	7.40	98.30	N/A	2.00 ⁶
Between Lopez, Shaw, Orcas and Friday Harbor ⁴	N/C	N/C	N/C	N/A	N/C
Anacortes to Sidney and Sidney to all destinations	21.80	10.90	N/A	N/A	4.00 ⁷
From Lopez, Shaw, Orcas and Friday Harbor to Sidney	13.70	6.85	N/A	N/A	2.00 ⁸
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) ³	26.90	13.20	N/A	N/A	4.00 ⁷

All fares rounded to the nearest multiple of \$0.05.

*These routes operate as a one-point toll collection system with round trip tolls.

¹MULTIRIDE MEDIA - Shall be valid only for 90 days from date of purchase after which time the tickets shall not be accepted for passage. Remaining value will not be eligible for refund or exchange. There shall be no commercial resale of this fare media. For mail order deliveries, WSF may add additional days to allow for delivery times.

²BICYCLE SURCHARGE - Is an addition to the appropriate passenger fare. Customers using multiride media and monthly passes are exempt from the bicycle surcharge. On all routes except Anacortes/San Juan Islands/Sidney, B.C., customers paying with the ePurse or the ORCA card are exempt from the bicycle surcharge. For the purposes of WSF fares determination, the bicycle fare category shall include both bicycles as defined by RCW 46.04.071 and electric-assisted bicycles as defined by RCW 46.04.169. Bicycles towing a kayak or canoe are to be charged the motorcycle/.driver (stowage) rate in WAC 468-300-020. This rate includes the fare for the walk on passenger with the bicycle, and the kayak or canoe being towed by the bicycle. This requirement shall not apply to interisland travel in the San Juan Islands. All other bicycles towing trailers are charged the applicable bicycle surcharge.

³ROUND TRIP - Round trip passage for international travel available for trips beginning or ending on one of the Islands served.

⁴INTER-ISLAND FARES - Passenger fares included in Anacortes tolls.

⁵PASSES - Passenger passes are available for all routes except Anacortes/San Juan Islands/Sidney, B.C. Passes are valid for the period printed on the pass and will be presented to Washington state ferries staff or scanned through an automated turnstile whenever a passenger fare is collected. This pass is based on 16 days of passenger travel with a 20% discount. A \$1.00 retail/shipping and handling fee will be added to the price of the pass. A combination ferry-transit pass may be available for a particular route when determined by Washington state ferries and a local public transit agency to be a viable fare instru-

ment. The WSF portion of the fare is based on 16 days of passenger travel per month at a 20% discount.

The monthly pass is valid for a maximum of 31 round trips per month, is nontransferable, is nonreproducible, and is intended for a single user. Monthly passes purchased through the regional SmartCard program are also nontransferable and intended for a single user, but allow for unlimited usage.

⁶BICYCLE SURCHARGE - This becomes \$4.00 during peak season (May 1 through September 30).

⁷BICYCLE SURCHARGE - This becomes \$6.00 during peak season (May 1 through September 30).

⁸BICYCLE SURCHARGE - This becomes \$3.00 during peak season (May 1 through September 30).

⁹CAPITAL SURCHARGE - Included is a \$0.50 capital surcharge on each single passenger fare collected. On all multiride cards except for Port Townsend/Coupeville, the included capital surcharge is \$5.00. For Port Townsend/Coupeville, the included capital surcharge is \$10.00 on multiride cards. On all monthly passes except Port Townsend/Coupeville, there is included a \$8.00 capital surcharge. For Port Townsend/Coupeville, the included capital surcharge is \$16.00 on monthly passes. For passenger half fare on Port Townsend/Coupeville the capital surcharge is \$0.40.

CHILDREN/YOUTH - Children under six years of age will be carried free when accompanied by parent or guardian. Children/youths six through ((eighteen)) 18 years of age will be charged the youth fare, which will be 50% of full fare rounded down to the nearest multiple of \$0.05.

SENIOR CITIZENS - Passengers age 65 and over, with proper identification establishing proof of age, may travel at half-fare passenger tolls on any route where passenger fares are collected, which will be rounded down to the nearest multiple of \$0.05.

PEOPLE WITH DISABILITIES - Any person who has a physical or mental impairment that substantially limits one or more major life activity, upon presentation of a WSF Disability Travel Permit, Regional Reduced Fare Permit, or other identification which establishes a disability may travel at half-fare passenger tolls on any route where passenger fares are collected, which will be rounded down to the nearest multiple of \$0.05. In addition, people with disabilities who require attendant care while traveling on the ferries, and are so certified by their physician, may obtain an endorsement on their WSF Disability Travel Permit and such endorsement shall allow the attendant to travel free as a passenger.

BUS PASSENGERS - Passengers traveling on public transit buses pay the applicable fare. Passengers traveling in private or commercial buses will be charged the half-fare rate, which will be rounded down to the nearest multiple of \$0.05.

MEDICARE CARD HOLDERS - Any person holding a medicare card duly issued to that person pursuant to Title II or Title XVIII of the Social Security Act may travel at half-fare passenger tolls, which will be rounded down to the nearest multiple of \$0.05 on any route upon presentation of a WSF Disability Travel Permit or a Regional Reduced Fare Permit at time of travel.

IN-NEED ORGANIZATIONS - For qualified organizations serving in-need clients by providing tickets for transportation on WSF at no cost to clients, program would offer a monthly discount to approximate appropriate multiride media discount rates. Appointing bodies (those that appoint Ferry Advisory Committees) will nominate to the Washington State Transportation Commission those organizations that meet the criteria of the program. The Commission will review such nominations and certify those organizations that qualify. The following criteria will be used for nominating and certifying in-need organizations: Nongovernmental and not-for-profit organizations whose primary purpose is one or more of the following: Help clients with medical issues; provide clients with low-income social services; help clients suffering from domestic violence; provide clients with employment-seeking services; and/or help clients with Social Security. Travel will be initially charged based on full fare and billed monthly. The credits will be approximately based on the discount rates offered to multiride media users applicable on the date of travel.

PROMOTIONAL TOLLS - A promotional rate may be established at the discretion of the WSF Assistant Secretary, Executive Director for a specific discount in order to enhance total revenue and effective only at designated times on designated routes. A promotional fare product may also be established to support tourism or other special events. The promotional fare or product may be bundled and sold as part of a multiparty promotional program.

Special passenger fare rate(s) may be established for a pilot program in conjunction with the Central Puget Sound Regional Fare Integration project on ferry route(s) serving King, Pierce, Snohomish and Kitsap counties. The rate(s) may be established at the discretion of the WSF Assistant Secretary, Executive Director for a specific discount not to exceed ~~((fifty))~~ 50 percent of full fare.

SCHOOL GROUPS - Passengers traveling in authorized school groups, including home-school groups, will be charged a flat rate of \$5.00 per walk-on group or per vehicle of students and/or advisors and staff. All school groups require a letter of authorization and prior notification. In the case of home-school groups, in addition to prior notification, a copy of the filed Declaration of Intent (as outlined in RCW 28A.200.010) shall be submitted to the tollbooth at the time of travel. Notification shall be made no less than 72 hours before the scheduled departure and will include the expected number of school-age children and adults that will be traveling to ensure WSF can satisfy U.S. Coast Guard lifesaving equipment requirements. Failure to provide adequate notification may result in delayed travel. Vehicles and drivers will be charged the fare applicable to vehicle size. The special school rate is \$10.00 on routes where one-point toll systems are in effect.

BUNDLED SINGLE FARE BOOKS - WSF may bundle single fare types into multiride media as a customer convenience. Remaining value will not be eligible for refund or exchange. For mail order deliveries, WSF may add additional days for delivery times.

FIRE DEPARTMENT AND FIRE DISTRICT FARE CONSIDERATION - At the discretion of the WSF Assistant Secretary, WSF may authorize no-fare or discounted fare passage on scheduled and/or special ferry sailings for fire departments and fire districts that provide contracted fire protection services for WSF ferry terminals and/or other WSF facilities within their jurisdiction. Such passage shall be considered full and complete consideration for such fire protection services, in lieu of annual payments for such services, to be so noted in such fire protection agreements. The scope of such authorization includes designated fire department and fire district vehicles (see below), drivers and passengers en route to and from an emergency call, on ferry routes with a WSF terminal and/or other WSF facility served by a fire department or fire district pursuant to a WSF fire protection service agreement. Authorized vehicles may include public fire department and fire district medical aid units, fire trucks, incident command and/or other vehicles dispatched to and returning from an emergency call.

GROUP OR VOLUME SALES - In order to increase total revenues, WSF may develop full fare or discounted customer packages or bundle single fare types into multiride media or offer passes for high volume or group users. In pricing these packages, WSF will have discretion to set appropriate volume discounts based on a case-by-case basis.

SPECIAL EVENTS - In order to increase total revenues, WSF may develop, create or participate in special events that may include, but not be limited to, contributing or packaging discounted fares in exchange for the opportunity to participate in the income generated by the event.

LOW-INCOME FARE PILOT - Starting no earlier than January 1, 2020, special passenger fare rate(s) may be established for a pilot program offering a low-income fare on any ferry route for riders made eligible through an existing transit agency's low-income fare program. Enactment of this program is dependent upon legislative funding for the pilot project. If funded, Washington State Ferries' Assistant Secretary shall submit a proposal to carry out this pilot program and the Washington State Transportation Commission must approve both the program and the fare schedule before it is implemented. Once implemented, WSF shall

provide, at a minimum, updates to the Commission every six months on the pilot. The pilot will conclude no longer than three years from its implementation.

GOOD TO GO! PILOT - Special ferry toll rate(s) may be established for a pilot program of Good to Go! or similar fare collection infrastructure, technology, or ORCA replacement system on any ferry route. Washington State Ferries Assistant Secretary shall design the program and submit a proposed program and fare schedule to the Washington State Transportation Commission. The Commission shall review, modify and approve the proposed fare schedule and fare policies before it is implemented. Once implemented, WSF shall provide, at a minimum, updates to the Commission every six months on the pilot. The pilot will conclude no longer than three years from its implementation.

EFFECTIVE 03:00 A.M. October 1, 2022

ROUTES	Full Fare ⁸	Senior/ Disabled((, Youth)) ⁸	Multiride Media 20 Rides ^{1, 8}	Monthly Pass ^{5, 8}	Bicycle Surcharge ²
Via Auto Ferry					
*Fauntleroy-Southworth	7.40	3.70	60.20	96.35	1.00
*Seattle-Bremerton					
*Seattle-Bainbridge Island					
*Edmonds-Kingston	9.45	4.70	76.60	122.60	1.00
Port Townsend-Coupeville	3.95	1.95	65.20	104.35	0.50
*Fauntleroy-Vashon					
*Southworth-Vashon					
*Pt. Defiance-Tahlequah	6.25	3.10	51.00	81.60	1.00
*Mukilteo-Clinton	5.80	2.90	47.40	75.85	1.00
*Anacortes to Lopez, Shaw, Orcas or Friday Harbor	15.20	7.60	100.55	N/A	2.00 ⁶
Between Lopez, Shaw, Orcas and Friday Harbor ⁴	N/C	N/C	N/C	N/A	N/C
Anacortes to Sidney and Sidney to all destinations	22.35	11.15	N/A	N/A	4.00 ⁷
From Lopez, Shaw, Orcas and Friday Harbor to Sidney	14.05	7.00	N/A	N/A	2.00 ⁸
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) ³	27.60	13.50	N/A	N/A	4.00 ⁷

All fares rounded to the nearest multiple of \$0.05.

*These routes operate as a one-point toll collection system with round trip tolls.

¹MULTIRIDE MEDIA - Shall be valid only for 90 days from date of purchase after which time the tickets shall not be accepted for passage. Remaining value will not be eligible for refund or exchange. There shall be no commercial resale of this fare media. For mail order deliveries, WSF may add additional days to allow for delivery times.

²BICYCLE SURCHARGE - Is an addition to the appropriate passenger fare. Customers using multiride media and monthly passes are exempt from the bicycle surcharge. On all routes except Anacortes/San Juan Islands/Sidney, B.C., customers paying with the ePurse or the ORCA card are exempt from the bicycle surcharge. For the purposes of WSF fares determination, the bicycle fare category shall include both bicycles as defined by RCW 46.04.071 and electric-assisted bicycles as defined by RCW 46.04.169. Bicycles towing a kayak or canoe are to be charged the motorcycle/.driver (stowage) rate in WAC 468-300-020. This rate includes the fare for the walk on passenger with the bicycle, and the kayak or canoe being towed by the bicycle. This requirement shall not apply to interisland travel in the San Juan Islands. All other bicycles towing trailers are charged the applicable bicycle surcharge.

³ROUND TRIP - Round trip passage for international travel available for trips beginning or ending on one of the Islands served.

⁴INTER-ISLAND FARES - Passenger fares included in Anacortes tolls.

⁵PASSES - Passenger passes are available for all routes except Anacortes/San Juan Islands/Sidney, B.C. Passes are valid for the period printed on the pass and will be presented to Washington state ferries staff or scanned through an automated turnstile whenever a passenger

fare is collected. This pass is based on 16 days of passenger travel with a 20% discount. A \$1.00 retail/shipping and handling fee will be added to the price of the pass. A combination ferry-transit pass may be available for a particular route when determined by Washington state ferries and a local public transit agency to be a viable fare instrument. The WSF portion of the fare is based on 16 days of passenger travel per month at a 20% discount.

The monthly pass is valid for a maximum of 31 round trips per month, is nontransferable, is nonreproducible, and is intended for a single user. Monthly passes purchased through the regional SmartCard program are also nontransferable and intended for a single user, but allow for unlimited usage.

⁶BICYCLE SURCHARGE - This becomes \$4.00 during peak season (May 1 through September 30).

⁷BICYCLE SURCHARGE - This becomes \$6.00 during peak season (May 1 through September 30).

⁸BICYCLE SURCHARGE - This becomes \$3.00 during peak season (May 1 through September 30).

⁹CAPITAL SURCHARGE - Included is a \$0.50 capital surcharge on each single passenger fare collected. On all multiride cards except for Port Townsend/Coupeville, the included capital surcharge is \$5.00. For Port Townsend/Coupeville, the included capital surcharge is \$10.00 on multiride cards. On all monthly passes except Port Townsend/Coupeville, there is an included \$8.00 capital surcharge. For Port Townsend/Coupeville, the included capital surcharge is \$16.00 on monthly passes. For passenger half fare on Port Townsend/Coupeville the capital surcharge is \$0.40.

CHILDREN/YOUTH - ((Children under six years of age will be carried free when accompanied by parent or guardian. Children/youths six through eighteen years of age will be charged the youth fare, which will be 50% of full fare rounded down to the nearest multiple of \$0.05.))
Children/youth passengers 18 years and under will ride free of charge on all system routes.

SENIOR CITIZENS - Passengers age 65 and over, with proper identification establishing proof of age, may travel at half-fare passenger tolls on any route where passenger fares are collected, which will be rounded down to the nearest multiple of \$0.05.

PEOPLE WITH DISABILITIES - Any person who has a physical or mental impairment that substantially limits one or more major life activity, upon presentation of a WSF Disability Travel Permit, Regional Reduced Fare Permit, or other identification which establishes a disability may travel at half-fare passenger tolls on any route where passenger fares are collected, which will be rounded down to the nearest multiple of \$0.05. In addition, people with disabilities who require attendant care while traveling on the ferries, and are so certified by their physician, may obtain an endorsement on their WSF Disability Travel Permit and such endorsement shall allow the attendant to travel free as a passenger.

BUS PASSENGERS - Passengers traveling on public transit buses pay the applicable fare. Passengers traveling in private or commercial buses will be charged the half-fare rate, which will be rounded down to the nearest multiple of \$0.05.

MEDICARE CARD HOLDERS - Any person holding a medicare card duly issued to that person pursuant to Title II or Title XVIII of the Social Security Act may travel at half-fare passenger tolls, which will be rounded down to the nearest multiple of \$0.05 on any route upon presentation of a WSF Disability Travel Permit or a Regional Reduced Fare Permit at time of travel.

IN-NEED ORGANIZATIONS - For qualified organizations serving in-need clients by providing tickets for transportation on WSF at no cost to clients, program would offer a monthly discount to approximate appropriate multiride media discount rates. Appointing bodies (those that appoint Ferry Advisory Committees) will nominate to the Washington State Transportation Commission those organizations that meet the criteria of the program. The Commission will review such nominations and certify those organizations that qualify. The following criteria will be used for nominating and certifying in-need organizations: Nongovernmental and not-for-profit organizations whose primary purpose is one or more of the following: Help cli-

ents with medical issues; provide clients with low-income social services; help clients suffering from domestic violence; provide clients with employment-seeking services; and/or help clients with Social Security. Travel will be initially charged based on full fare and billed monthly. The credits will be approximately based on the discount rates offered to multiride media users applicable on the date of travel.

PROMOTIONAL TOLLS - A promotional rate may be established at the discretion of the WSF Assistant Secretary, Executive Director for a specific discount in order to enhance total revenue and effective only at designated times on designated routes. A promotional fare product may also be established to support tourism or other special events. The promotional fare or product may be bundled and sold as part of a multiparty promotional program.

Special passenger fare rate(s) may be established for a pilot program in conjunction with the Central Puget Sound Regional Fare Integration project on ferry route(s) serving King, Pierce, Snohomish and Kitsap counties. The rate(s) may be established at the discretion of the WSF Assistant Secretary, Executive Director for a specific discount not to exceed ((fifty)) 50 percent of full fare.

SCHOOL GROUPS - Passengers traveling in authorized school groups, including home-school groups, will be charged a flat rate of \$5 per walk-on group or per vehicle of students and/or advisors and staff. All school groups require a letter of authorization and prior notification. In the case of home-school groups, in addition to prior notification, a copy of the filed Declaration of Intent (as outlined in RCW 28A.200.010) shall be submitted to the tollbooth at the time of travel. Notification shall be made no less than 72 hours before the scheduled departure and will include the expected number of school-age children and adults that will be traveling to ensure WSF can satisfy U.S. Coast Guard lifesaving equipment requirements. Failure to provide adequate notification may result in delayed travel. Vehicles and drivers will be charged the fare applicable to vehicle size. The special school rate is \$10 on routes where one-point toll systems are in effect.

BUNDLED SINGLE FARE BOOKS - WSF may bundle single fare types into multiride media as a customer convenience. Remaining value will not be eligible for refund or exchange. For mail order deliveries, WSF may add additional days for delivery times.

FIRE DEPARTMENT AND FIRE DISTRICT FARE CONSIDERATION - At the discretion of the WSF Assistant Secretary, WSF may authorize no-fare or discounted fare passage on scheduled and/or special ferry sailings for fire departments and fire districts that provide contracted fire protection services for WSF ferry terminals and/or other WSF facilities within their jurisdiction. Such passage shall be considered full and complete consideration for such fire protection services, in lieu of annual payments for such services, to be so noted in such fire protection agreements. The scope of such authorization includes designated fire department and fire district vehicles (see below), drivers and passengers en route to and from an emergency call, on ferry routes with a WSF terminal and/or other WSF facility served by a fire department or fire district pursuant to a WSF fire protection service agreement. Authorized vehicles may include public fire department and fire district medical aid units, fire trucks, incident command and/or other vehicles dispatched to and returning from an emergency call.

GROUP OR VOLUME SALES - In order to increase total revenues, WSF may develop full fare or discounted customer packages or bundle single fare types into multiride media or offer passes for high volume or group users. In pricing these packages, WSF will have discretion to set appropriate volume discounts based on a case-by-case basis.

SPECIAL EVENTS - In order to increase total revenues, WSF may develop, create or participate in special events that may include, but not be limited to, contributing or packaging discounted fares in exchange for the opportunity to participate in the income generated by the event.

LOW-INCOME FARE PILOT - Starting no earlier than January 1, 2020, special passenger fare rate(s) may be established for a pilot program offering a low-income fare on any ferry route for riders made eligible through an existing transit agency's low-income fare program. Enact-

ment of this program is dependent upon legislative funding for the pilot project. If funded, Washington State Ferries' Assistant Secretary shall submit a proposal to carry out this pilot program and the Washington State Transportation Commission must approve both the program and the fare schedule before it is implemented. Once implemented, WSF shall provide, at a minimum, updates to the Commission every six months on the pilot. The pilot will conclude no longer than three years from its implementation.

GOOD TO GO! PILOT - Special ferry toll rate(s) may be established for a pilot program of Good to Go! or similar fare collection infrastructure, technology, or ORCA replacement system on any ferry route. Washington State Ferries Assistant Secretary shall design the program and submit a proposed program and fare schedule to the Washington State Transportation Commission. The Commission shall review, modify and approve the proposed fare schedule and fare policies before it is implemented. Once implemented, WSF shall provide, at a minimum, updates to the Commission every six months on the pilot. The pilot will conclude no longer than three years from its implementation.

[Statutory Authority: RCW 47.56.030 and 47.60.315. WSR 21-18-069, § 468-300-010, filed 8/26/21, effective 9/26/21. Statutory Authority: RCW 47.56.030, 47.60.315, and 2019 c 431. WSR 19-18-004, § 468-300-010, filed 8/22/19, effective 9/22/19. Statutory Authority: RCW 47.56.030 and 47.60.315. WSR 17-18-018, § 468-300-010, filed 8/25/17, effective 9/25/17; WSR 15-18-002, § 468-300-010, filed 8/19/15, effective 10/1/15; WSR 13-18-019, § 468-300-010, filed 8/26/13, effective 9/26/13; WSR 11-18-034, § 468-300-010, filed 8/30/11, effective 10/1/11 and 5/1/12. Statutory Authority: RCW 47.56.030, 47.60.326. WSR 10-24-028, § 468-300-010, filed 11/19/10, effective 1/1/11; WSR 09-19-044, § 468-300-010, filed 9/10/09, effective 10/11/09; WSR 08-08-070, § 468-300-010, filed 3/31/08, effective 5/1/08; WSR 07-08-064, § 468-300-010, filed 3/29/07, effective 5/1/07; WSR 06-08-036, § 468-300-010, filed 3/29/06, effective 5/1/06; WSR 05-10-041, § 468-300-010, filed 4/28/05, effective 6/1/05; WSR 03-08-072, § 468-300-010, filed 4/1/03, effective 5/2/03; WSR 02-09-010, § 468-300-010, filed 4/5/02, effective 5/6/02; WSR 01-11-010, § 468-300-010, filed 5/3/01, effective 6/3/01; WSR 00-24-050, § 468-300-010, filed 11/30/00, effective 12/31/00; WSR 99-08-066, § 468-300-010, filed 4/5/99, effective 5/6/99; WSR 98-08-051, § 468-300-010, filed 3/27/98, effective 4/27/98; WSR 96-05-046 and 96-05-047 (Orders 79 and 80), § 468-300-010, filed 2/16/96, effective 3/19/96; WSR 94-18-014 (Order 77), § 468-300-010, filed 8/25/94, effective 9/25/94; WSR 94-07-104 (Order 75), § 468-300-010, filed 3/18/94, effective 4/18/94; WSR 93-18-005, § 468-300-010, filed 8/19/93, effective 9/19/93; WSR 92-18-005, § 468-300-010, filed 8/20/92, effective 9/20/92; WSR 91-18-022 (Order 72), § 468-300-010, filed 8/27/91, effective 9/27/91; WSR 89-14-052 (Order 67, Resolution No. 354), § 468-300-010, filed 6/30/89; WSR 89-04-014 (Order 66, Resolution No. 343), § 468-300-010, filed 1/23/89, effective 7/1/89; WSR 87-12-005 (Order 61, Resolution No. 298), § 468-300-010, filed 5/21/87. Statutory Authority: RCW 47.60.290, 47.60.300 and 47.60.326. WSR 86-24-009 (Order 59, Resolution No. 287), § 468-300-010, filed 11/21/86. Statutory Authority: RCW 47.60.326. WSR 86-06-010 (Order 54, Resolution No. 263), § 468-300-010, filed 2/21/86; WSR 85-11-007 (Order 44, Resolution No. 241), § 468-300-010, filed 5/3/85; WSR 84-11-052 (Order 42, Resolution Nos. 221 and 222), § 468-300-010, filed 5/17/84; WSR 84-10-002 (Order 41, Resolution No. 218), § 468-300-010, filed 4/20/84; WSR 83-07-062 (Order 33, Resolution No. 175), § 468-300-010, filed 3/22/83; WSR 82-07-063 (Order 28, Resolution No. 143), § 468-300-010, filed

3/22/82. Statutory Authority: RCW 47.60.325 and 47.56.030. WSR 81-15-099 (Order 23, Resolution No. 117), § 468-300-010, filed 7/22/81. Statutory Authority: RCW 47.60.325. WSR 81-08-044 (Order 17, Resolution No. 104), § 468-300-010, filed 3/31/81; WSR 80-16-012 (Order 16, Resolution No. 90), § 468-300-010, filed 10/27/80; WSR 80-04-104 (Order 15, Resolution No. 72), § 468-300-010, filed 4/1/80; WSR 79-09-136 (Order 11, Resolution No. 57), § 468-300-010, filed 9/5/79; WSR 79-04-047 (Order 6, Resolution No. 44), § 468-300-010, filed 3/27/79; WSR 78-06-040 (Order 2, Resolution No. 21), § 468-300-010, filed 5/19/78.]

WSR 22-13-150
EXPEDITED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
[Filed June 21, 2022, 8:51 a.m.]

Title of Rule and Other Identifying Information: New chapter 296-801 WAC, Protecting temporary workers.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposal is to create a new chapter to protect temporary workers by implementing requirements from SHB 1206, and passed by the Washington state legislature in 2021, codified as RCW 49.17.490. RCW 49.17.490 requires staffing agencies to assess the employer's safety and health practices at the workplace that the employee will be working. They must assess the safety conditions, the tasks the employee will be completing, as well as the safety program that the employer has in place. These inquiries are required to take place at the start of the contract, and it may involve the staffing agency visiting the actual work site. The proposed rule making incorporates the statutory language passed by the legislature and includes requirements for staffing agencies and worksite employers. Please see below for an overview of the proposed language.

New Sections:

WAC 296-801-098 Purpose and scope.

- Indicates this new chapter applies to the safety and health requirements for staffing agencies and worksite employers consistent with RCW 49.17.490 Temporary workers—Safety—Staffing agency and worksite employer duties.

WAC 296-801-099 Definitions.

- Add definitions for "staffing agency" and "worksit" (also referred to as host) employer."

WAC 296-801-100 Staffing agency requirements.

- Indicates the requirements a staffing agency must follow before there is an employee assigned to a worksite.

WAC 296-801-110 Worksite employer requirements.

- Indicates the requirements a worksite employer must follow before all temporary employees perform worksite duties for the employer.

Reasons Supporting Proposal: The passage of SHB 1206 highlighted the hazards temporary workers can face that may be outside the scope of their employer, a staffing agency, when working on an assigned worksite or when a worksite location is changed without their employer's knowledge. Creating a new chapter implementing requirements from RCW 49.17.490 protecting temporary workers, ensures workers of staffing agencies are protected from workplace hazards at an assigned worksite.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060, and 49.17.490.

Statute Being Implemented: RCW 49.17.490.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of Labor and Industries, governmental.

Name of Agency Personnel Responsible for Drafting: Chris Miller, Tumwater, Washington, 360-902-5516; Implementation and Enforcement: Craig Blackwood, Tumwater, Washington, 360-902-5828.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Not applicable.

This notice meets the following criteria to use the expedited adoption process for these rules:

Adopts or incorporates by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule.

Content is explicitly and specifically dictated by statute.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: The expedited rule-making process is appropriate due to no material change occurring from the Washington state statute, which fits within the parameters of RCW 34.05.353 Expedited rule making.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Tari Enos, Department of Labor and Industries, Division of Occupational Safety and Health, P.O. Box 44620, Olympia, WA 98504-4620, phone 360-902-5516, fax 360-902-5619, email Tari.Enos@Lni.wa.gov, AND RECEIVED BY August 22, 2022.

June 21, 2022
Joel Sacks
Director

OTS-3761.2

Chapter 296-801 WAC PROTECTING TEMPORARY WORKERS

NEW SECTION

WAC 296-801-098 Purpose and scope. Chapter 296-801 WAC provides health and safety requirements for staffing agencies and worksite (or host) employers consistent with RCW 49.17.490 Temporary workers—Safe-

ty—Staffing agency and worksite employer duties. The requirements in this chapter are limited to employers classified under the North American Industry Classification System (NAICS) in Sectors 31 through 33 (manufacturing), and code 561320 (temporary help services).

Notes:

1. The NAICS is maintained by the U.S. Census Bureau (<https://www.census.gov/naics/>).
2. Washington state employers can typically find their NAICS code, by using the business lookup tool on the Washington state department of revenue's website (<https://dor.wa.gov/>).

[]

NEW SECTION

WAC 296-801-099 Definitions. Staffing agency. An employer whose business is classified under the North American Industry Classification System (NAICS) 561320 industry sector. In general, these organizations recruit and hire employees and temporarily assigns those employees to perform work or services for another organization, under such other organization's supervision, to:

- (a) Support or supplement the other organization's workforce;
- (b) Provide assistance in special work situations including, but not limited to, employee absences, skill shortages, or seasonal workloads; or
- (c) Perform special assignments or projects.

Worksite (also referred to as host) employer. An employer with which a staffing agency contracts or otherwise agrees to furnish persons for temporary employment in the industries described in NAICS sectors 23 (construction industry sector), and 31 through 33 (manufacturing industry sector).

[]

NEW SECTION

WAC 296-801-100 Staffing agency requirements. Before the assignment of an employee to a worksite employer, a staffing agency must:

(1) Inquire about the worksite employer's safety and health practices and hazards at the actual workplace where the employee will be working to assess the safety conditions, workers tasks, and the worksite employer's safety program; these activities are required at the start of any contract to place workers and may include visiting the actual worksite. If, during the inquiry or anytime during the period of the contract, the staffing agency becomes aware of existing job hazards that are not mitigated by the worksite employer, the staffing agency must make the host employer aware, urge the host employer to correct it, and document these efforts, otherwise the staffing agency must remove the temporary workers from the worksite;

(2) Provide training to the employee for general awareness safety training for recognized industry hazards the employee may encounter at the worksite. Industry hazard training must be completed, in the preferred language of the employee, and must be provided at no expense to the employee. The training date and training content must be main-

tained by the staffing agency and provided to the employee upon request;

(3) Transmit a general description of the training program including topics covered to the worksite employer, whether electronically or on paper, at the start of the contract with the worksite employer;

(4) Provide the department's hotline number (1-800-4BS-SAFE, or 1-800-423-7233 and using option 2, then option 2 again to report unsafe working conditions) for the employee to call to report safety hazards and concerns as part of the employment materials provided to the employee; and

(5) Inform the employee who the employee should report safety concerns to at the workplace.

Note: A staffing agency or employee may refuse a new job task at the worksite when the task has not been reviewed or if the employee has not had appropriate training to do the new task.

[]

NEW SECTION

WAC 296-801-110 Worksite employer requirements. (1) Before each temporary employee engages in work for the worksite employer, the worksite employer must:

(a) Document and inform the staffing agency about anticipated job hazards likely encountered by the staffing agency employee/temporary employee;

(b) Review the safety and health awareness training provided by the staffing agency to determine if it addresses recognized hazards for the worksite employer's industry;

(c) Provide specific training tailored to the particular hazards at their workplaces; and

(d) Document and maintain records of site-specific training and provide confirmation that the training occurred to the staffing agency within three business days of providing the training.

(2) If at any time during the period of the contract the staffing agency notifies the worksite employer of job hazards that are not mitigated, the worksite employer must address them and ensure correction.

(3) If the worksite employer changes the job tasks or work location and new hazards may be encountered, the worksite employer must:

(a) Inform both the staffing agency and the employee; and

(b) Inform both the staffing agency and the employee of job hazards not previously covered before the employee undertakes the new tasks and update personal protective equipment and training for the new job tasks, if necessary.

[]

WSR 22-13-152
EXPEDITED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed June 21, 2022, 11:28 a.m.]

Title of Rule and Other Identifying Information: Definition of ordinary maintenance. WAC 296-127-010 Definitions, for chapter 296-127 WAC, Prevailing wage.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The legislature passed HB 1975 relating to property management services provided to housing authority properties, amending RCW 35.82.070. HB 1975 specifies that certain revenues collected by a property management services company from housing project tenants, when used to pay for administrative operating and ordinary maintenance costs, are treated as private funds. HB 1975 also includes a definition of what "ordinary maintenance" is specific to housing authorities. The department of labor and industries (L&I) now needs to include this language in WAC 296-127-010 to ensure the rule definition of ordinary maintenance is consistent with the definition in statute.

Reasons Supporting Proposal: L&I must update the definition of "ordinary maintenance" in WAC 296-127-010 to ensure the rule definition is consistent with the definition created in statute, in RCW 35.82.070, through the passage of HB 1975.

Statutory Authority for Adoption: Chapter 39.12 RCW.

Statute Being Implemented: HB 1975 (chapter 273, Laws of 2022). Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: L&I, governmental.

Name of Agency Personnel Responsible for Drafting: Reasa L. Pearson, Tumwater, Washington, 360-902-5331; **Implementation and Enforcement:** Peter Guzman, Tumwater, Washington, 360-902-5330.

This notice meets the following criteria to use the expedited adoption process for these rules:

Adopts or incorporates by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: Expedited rule making is appropriate because HB 1975 has passed, and includes a definition of what "ordinary maintenance" includes specific to housing authorities. L&I plans to mirror the language in our [its] rules (WAC 296-127-010).

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Reasa L.

Pearson, L&I, Fraud Prevention and Labor Standards/Prevailing Wage, P.O. Box 44540, Olympia, WA 98504-4540, phone 360-902-5331, email PrevailingWageRules@Lni.wa.gov, AND RECEIVED BY August 22, 2022.

June 21, 2022
Joel Sacks
Director

OTS-3890.1

AMENDATORY SECTION (Amending WSR 19-15-119, filed 7/23/19, effective 8/23/19)

WAC 296-127-010 Definitions for chapter 296-127 WAC. (1) "Department" means the department of labor and industries.

(2) "Director" means the director of the department or his or her duly authorized deputy or representative.

(3) "Industrial statistician" means the industrial statistician of the department.

(4) "Assistant director" means the assistant director of the fraud prevention and labor standards (FPLS) division or his or her duly authorized deputy or representative.

(5) "Contractor" means:

(a) The prime contractor, and each and every subcontractor, required to be registered under chapter 18.27 RCW and/or licensed under chapter 19.28 RCW, that performs any work on a public works project site, and/or is required to pay industrial insurance premiums as a construction company.

(b) Employers engaged in shipbuilding and ship repair, building service maintenance, and any fabricator or manufacturer that produces nonstandard items specifically for a public works project.

(c) Employers that contract with contractors or subcontractors for the purpose of the production and/or delivery of materials pursuant to the terms of WAC 296-127-018.

(6) The term municipality shall include every city, county, town, district, political subdivision, or other public agency thereof which is authorized by law to require the execution of public work, except drainage districts, diking districts, diking and drainage improvement districts, drainage improvement districts, diking improvement districts, consolidated diking and drainage improvement districts, consolidated drainage improvement districts, consolidated diking improvement districts, irrigation districts, or any such other districts as shall from time to time be authorized by law for the reclamation or development of waste or undeveloped lands.

(7) (a) The term "public work" shall include:

(i) All work, construction, alteration, enlargement, improvement, repair, and/or demolition that is executed by contract, purchase order, or any other legal agreement and that is executed at the cost of the state of Washington or of any municipality. The source of the funding shall not determine the applicability of the statute, and may include, but is not limited to, such sources as those payments made through contracts with insurance companies on behalf of the insured state or municipality;

(ii) All work, construction, alteration, enlargement, improvement, repair, and/or demolition which, by law, constitutes a lien or charge on any property of the state or of a municipality;

(iii) All work, construction, alteration, repair, or improvement, other than ordinary maintenance that the state or a municipality causes to be performed by a private party through a contract to rent, lease, or purchase at least ((fifty)) 50 percent of the project by one or more state agencies or municipalities, pursuant to RCW 39.04.260;

(iv) Maintenance, except ordinary maintenance as defined by (b) ((iii)) (ii) of this subsection, when performed by contract. Maintenance is defined as keeping existing facilities in good usable, operational condition;

(v) Janitorial and building service maintenance as defined by WAC 296-127-023, when performed by contract, on public buildings and/or assets; and

(vi) The fabrication and/or manufacture of nonstandard items produced by contract specifically for a public works project as defined by (a)(i) through (v) of this subsection.

(b) The term "public work" shall not include:

(i) Work, construction, alteration, enlargement, improvement, repair, demolition, and/or maintenance for which no wage or salary compensation is paid, consistent with the requirements of RCW 35.21.278; or

(ii) Ordinary maintenance.

(A) Ordinary maintenance is defined as maintenance work performed by the regular employees of the state or any county, municipality, or political subdivision created by its laws.

(B) Ordinary maintenance is also defined as maintenance work performed under a contract with a property management services company for purposes of operating affordable housing project as provided in RCW 35.82.070.

(8) "Contract" means a contract, purchase order, or any other legal agreement in writing for public work to be performed for a fixed or determinable amount, which is duly awarded after advertisement and competitive bid. A contract that is awarded from a small works roster, or under the emergency provisions of state law, need not be advertised.

(9) "Residential construction" means construction, alteration, repair, improvement, or maintenance of single family dwellings, duplexes, apartments, condominiums, and other residential structures not to exceed four stories in height, including basement, when used solely as permanent residences. It does not include the utilities construction (water and sewer lines), or work on streets, or work on other structures (e.g., for recreation and business.)

[Statutory Authority: Chapter 39.12 RCW. WSR 19-15-119, § 296-127-010, filed 7/23/19, effective 8/23/19. Statutory Authority: RCW 39.12.070. WSR 94-01-100, § 296-127-010, filed 12/16/93, effective 1/16/94. Statutory Authority: Chapters 39.04 and 39.12 RCW and RCW 43.22.270. WSR 92-01-104, § 296-127-010, filed 12/18/91, effective 1/31/92; WSR 88-22-046 (Order 88-22), § 296-127-010, filed 10/31/88. Statutory Authority: RCW 39.12.050, 39.12.065, 43.22.270 and 51.04.020. WSR 86-03-063 (Order 85-28), § 296-127-010, filed 1/17/86. Statutory Authority: RCW 39.12.015, 39.12.060 and HB 795, 1982 1st ex.s. c 38. WSR 82-18-041 (Order 82-28), § 296-127-010, filed 8/27/82.]